



BOARD OF APPEALS
Diane R. Gordon, Co-Chair
Harry Miller, Co-Chair
Bailey S. Silbert

Town of Brookline *Massachusetts*

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Patrick J. Ward, Secretary

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. BOA070044

Petitioners, Harry and Sandra Dine applied to the Board of Appeals for zoning relief to demolish an existing garage and create a parking area for two motor vehicles on their property at 23 Dudley Street. On May 31, 2007, the Board of Appeals met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed August 16, 2007, at 7:00 p.m. in Hunneman Hall, second floor, Main Library as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioners, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published July 26 and August 2, 2007 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEALS
NOTICE OF HEARING

Pursuant to M.G.L., C.39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: Harry and Sandra DINE

Location of Premises: **23 Dudley Street BRKL**
Date of Hearing: **08/16/2007**
Time of Hearing: **07:00 p.m.**
Place of Hearing: **Hunneman Hall, Main Library**

A public hearing will be held for a special permit and/or variance from:

1) For The Design of All Off-Street Parking Facilities:

6.04.5.c.1; Variance Required

6.04.5.c.2; Variance Required

6.04.12; Special Permit Required.

2) 8.02.2, Alteration or Extension; Special Permit Required of the Zoning By-Law to construct a retaining wall; other ancillary structures and a parking area for two (2) motor vehicles per plans at **23 DUDLEY ST BRKL**.

Said Premise located in a S-10 District.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

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At the time and place specified in the notice, a public hearing was held by this Board. Present at the hearing was Chair, Diane Gordon and Board members Harry Miller and Lawrence Kaplan. Attorney Ronny Sydney, 370 Washington Street, Brookline, presented the case before the Board.

Attorney Sydney described the residence as a single family home in the S-10 zoning district with a separate, single-car garage located very close to the front and side lot lines. She said that the petitioners had lived at this address for approximately 20 years and have continuously parked one car in the garage and one

in the drive in front of the garage, partially blocking the sidewalk. Several months ago the petitioners were approached and notified that they could no longer block the sidewalk – that they had to find another parking solution. She said that the current garage is 6 feet from the side lot line and 5.4 feet from the front lot line. Attorney Sydney stated that the petitioners are now before the Board with a proposal to solve the issue. First, the petitioners received permission from the Preservation Commission to demolish the garage. Mr. and Mrs. Dine have retained the services of Barbara Boardman, a landscape designer, for the project. The plan shows a parking area 29 feet from the front lot line and 27 feet wide with room for two side-by-side spaces. The subject lot is unusual in shape in that it is almost triangular and it has a significant slope toward the rear yard. Because of the slope, the proposal includes the construction of a three foot retaining wall with steps leading to the rear door of the home. Attorney Sydney stated that the petitioners were before the Planning Board on two occasions. At the first meeting, the Planning Board asked the petitioners to consider other parking options that would not require zoning relief from the front yard set back requirements.. After meeting at the site with members of the Planning Department, it was concluded that the plan before the Board is really the only feasible option. This is due in part to the slope of the driveway and the configuration of the lot. Attorney Sydney discussed the conditions and recommendations made by the Planning Board and said her clients are in full agreement with them. She said the proposal required relief in the form of a Special Permit under **Section 6.04.12** to waive the dimensional requirements for new parking facilities serving existing structures. She also said relief under **Section 8.02.2** is required to alter a non-conforming structure. The amenities that the petitioners will provide include planting along the side lot line and behind the retaining wall. She stated that the neighbors are in support of the plan and some were in attendance at the Planning Board hearing. Because of the slope of the property it will be very difficult to see the cars from the front of the property and with the plantings along the neighbor's retaining wall, it will be almost impossible

to see the parking area from the side. Plantings along the new retaining wall will make it difficult to see the parking area from the rear. She said that the project is in keeping with the neighborhood and as you drive around the neighborhood there are some very unusual parking arrangements with parking along side lot lines in front of several dwellings. She said that the project would be a definite improvement to the neighborhood. The Chair asked about the landscape plan and the Ms. Boardman explained the location of the new plantings.

The Chair then asked whether anyone wished to speak in favor or in opposition to the proposal and no one rose to speak.

Assistant Director for Regulatory Planning, Polly Selkoe, then reviewed the comments and recommendations of the Planning Board. She said applicant is proposing to demolish an existing garage and create a parking area for two (2) motor vehicles requiring setback relief at 23 Dudley Street. The current garage is located close to the street, and has parking for one car. To create the parking area, the garage, located approximately 6 feet from the right side lot line and 5.43 feet from the front lot line, will be demolished. In its place, a parking area will be constructed which will extend 29' back from the front lot line, and will be 27' wide. The surface of the parking area will be constructed of tumbled pavers surrounded by a perimeter of pea stone. At the rear of the parking area, the applicant is proposing to construct an approximately 3' tall fieldstone retaining wall with bluestone steps leading to a rear walkway. The parking area will be accessed by an existing curb cut. Portions of existing landscaping will be removed and new landscaping will be installed at the rear of the parking area, atop the proposed retaining wall. Ms. Selkoe described the relief required for the proposal as follows:

Section 6.04.5.c.1 – Design of All Off-Street Parking Facilities

Section 6.04.5.c.2 – Design of All Off-Street Parking Facilities

Proposed Driveway	Required	Proposed	Relief
Parking/Driveway Front Setback	20 feet	8-11 feet	S.P./Variance*
Parking/Driveway Side Setback	5 feet	4 feet	S.P./Variance*

*Under Section 6.04.12 the Board of Appeals may waive dimensional requirements for parking facilities to serve existing buildings.

Section 8.02.2 – Alteration or Extension

A special permit is required to alter a non-conforming structure.

Ms. Selkoe said that the Planning Board has no objections to this proposal to demolish an existing garage and create a parking area for two (2) motor vehicles at 23 Dudley Street. The existing garage is close to the street and can only accommodate parking for one small car. The applicant currently parks in front of the garage, which causes vehicles to overhang into the sidewalk area. While the Board is generally not in favor of front yard parking, the creation of a parking area on this property will represent a visual and logistical improvement to the parking situation. Additionally, the parking area is screened from the street and adjacent properties by utilizing existing and proposed landscaping. The Planning Board felt that in order to create a continuous landscaped buffer around the driveway, and to come closer to conformance of parking/driveway side setback requirements, the applicant should install a 2' wide planting strip along the east side of the driveway at the property line. Also, to ensure the sidewalk in front of the driveway is kept free of obstructions, vehicles should not be parked on the site so as to overhang into the sidewalk area. The applicant should submit final plans indicating the location of the two parking spaces, as well as colors and material selection of the tumbled pavers and retaining wall. Therefore, the Planning Board recommends approval of the proposal and the plans, titled "#23 Dudley St. Proposed Driveway – Landscape Schematic" by Barbara Boardman, dated 4/26/07, subject to the following conditions:

- 1. Prior to the issuance of a building permit, a final landscaping plan shall be submitted to the Assistant Director for Regulatory Planning for review and approval. The landscaping plan shall include a 2' wide planting strip along the eastern side of the driveway at the property line and behind the new retaining wall.**

2. Prior to the issuance of a building permit, final plans indicating the location of the two parking spaces, as well as colors and materials of the tumbled pavers and retaining wall shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
3. No vehicles parked in the driveway shall overhang into the sidewalk area.
4. Prior to issuance of a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chair called on Frank Hitchcock representing the Building Department. Mr. Hitchcock described the project before the Board. He said that the proposal required two Special Permits; one under Section 6.04.12 for new parking facilities serving existing structures and one under Section 8.02.2 because the existing parking arrangement is non-conforming. Mr. Hitchcock said that the Building Department had no objection to the proposal, the relief required or to the conditions proposed by the Planning Board.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant Special Permits under Sections 6.04.12, and 8.02.2 of the Zoning Bylaw and makes the following findings pursuant to Section 9.05:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

After discussion, the Board agreed that the petitioner met the requirements for relief in the form of Special Permits and voted unanimously to grant all the Special Permit relief with the following conditions:

1. Prior to the issuance of a building permit, a final landscaping plan shall be submitted to the Assistant Director for Regulatory Planning for review and approval. The

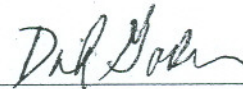
landscaping plan shall include a 2' wide planting strip along the eastern side of the driveway at the property line and behind the new retaining wall.

2. Prior to the issuance of a building permit, final plans indicating the location of the two parking spaces, as well as colors and materials of the tumbled pavers and retaining wall shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
3. No vehicles parked in the driveway shall overhang into the sidewalk area.
4. Prior to issuance of a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals

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TOWN OF BROOKLINE
REGISTRARS OF VOTES
07 AUG 27 PM 3:45
A True Copy:

Date: August 27, 2007



Diane R. Gordon

ATTEST



Patrick J. Ward

Clerk, Board of Appeals